Thinking "Outside the Box"

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Learning Objectives

• Realizing that tax professionals don't give themselves enough credit for understanding the craziness that is state & local tax.
• Remembering that taxes are complex.
• Keeping in mind that tax laws change constantly.
• Understanding that dealing with state & local revenue departments is not easy and,
• State & local authorities are often aggressive and unreasonable, but are unavoidable.
Illinois Manufacturer's Purchase Credit (MPC)

- An Illinois classic of pointless complexity
- A credit for tax you didn't pay!
- **Earn MPC** on exempt purchases of Machinery & Equipment
  - (1/2 of the 6.25% state tax rate)
- **Use MPC** to Pay Sales Tax on Future Taxable Purchases of Qualifying Production-Related Tangible Personal Property
Another strangely complex Illinois classic

Service Occupation Tax (SOT)/Service Use Tax (SUT):

1. Collect Tax on Separately Stated Selling Price of TPP incident to service.
2. Collect Tax on 50% of entire bill.
3. For registered de minimis servicemen, pay SOT on cost price of TPP, collect corresponding SUT from customers.
4. For registered (but not required to be registered) de minimis servicemen, pay Use Tax on cost price of TPP.
Transportation or Shipping Charges

- Taxable or Non-Taxable?
- State Variations
- Why not just charge tax on all shipping charges?
  - Competitive disadvantage
  - Possibility of suit by customers.
      - Suit on behalf of customers
      - Shipping Charges Were Part of the Taxable Sales Price
Leases of Equipment

- Tax on Lease Stream – Most States
- Tax on Purchase Price of Item Acquired for Lease (Illinois)
- Michigan's Treatment of Leases – You Can Choose

- What's a Lease?
- What's a Sale?
- Issues involving mobile property and non-mobile leased property moved from one state to another.
State Income/Franchise Taxes Are NOT Static

• Michigan – History of Business Taxation
  – Business Activities Tax (BAT) enacted in 1953
    • Value Added Tax (Income Type)
  – Single Business Tax (SBT) enacted in 1975
    • Value Added Tax (Consumption Type)
  – Michigan Business Tax (MBT) enacted in 2008
    • Gross Receipts (Business Income Tax)
    • Corporate Income Tax, effective Jan. 1, 2012
• Apportionment Formulas: 3 factor to double weighted sales factor to single sales factor.
• Unity/Combined Apportionment & Sourcing of Services
Cloud Computing

• **What is Cloud Computing?**
  – Unlimited, on-demand computing capability through the use of shared resources that can be accessed with minimal effort.

• **Tax Issues and Concerns**
  – Nexus
  – Service or Lease of TPP?
  – Sourcing
  – When do you pay tax?
  – To whom do you pay tax?
  – What do you do when the state won't give you an answer, i.e. Illinois?
Chicago Taxes

- Special Local Taxes
- Canned or Bottled Soda \textbf{Tax Rate of 3%}
- Fountain Soft Drink \textbf{Tax Rate of 9%}
- Bottled Water Tax
- Cigarette Tax
- Liquor Tax
- Use Tax on Non-Titled Property
- Tire Fee

- \textbf{Inconsistency with state taxes}
Pierogies

Washington Dept. of Revenue Determination (2010)

- "Bakery Items" are Exempt
- "Prepared Foods" are Taxable
- Pierogies are Taxable Prepared Foods
  - Filling is Not Sweet
  - Requires Heating
State & Local Audits

• Aggressive Auditors
• Inexperienced Auditors
• Inexperienced/Aggressive Auditors
• Audit Techniques
  – Sampling
  – Computer Assisted Audits
Whistleblowers

• Federal Whistleblower Protection Act
  – "A person may bring a civil action for violation of section 3729 (False Claims) for the person and for the United States Government."

• State Whistleblower Protection Act
  – "A person may bring a civil action for violation of Section 3 (False Claims) for the person and for the State."
QUESTIONS
or
COMMENTS?
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